

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LUCILLE H. STAFFORD and U.S. POSTAL SERVICE,
POST OFFICE, Chicago, IL

*Docket No. 99-444; Submitted on the Record;
Issued May 18, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that she sustained an injury in the performance of duty, as alleged.

The Board has duly reviewed the case on appeal, and finds that appellant has not met her burden of proof in establishing that she sustained an injury in the performance of duty, as alleged.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an "employee of the United States" within the meaning of the Act, and that the claim was filed within the applicable time limitations of the Act.² An individual seeking disability compensation must also establish that an injury was sustained at the time, place and in the manner alleged,³ that the injury was sustained while in the performance of duty,⁴ and that the disabling condition for which compensation is claimed was caused or aggravated by the individual's employment.⁵ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.⁶

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Robert A. Gregory*, 40 ECAB 478 (1989).

⁴ *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *Steven R. Piper*, 39 ECAB 312 (1987).

⁶ *David J. Overfield*, 42 ECAB 718 (1991); *Victor J. Woodhams*, 41 ECAB 345 (1989).

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.

The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁷

In this case, on June 1, 1998 appellant, then a 41-year-old mail carrier, filed an occupational disease claim, stating that, "I was having severe pain from neck area down shoulder. I went to Saint Francis emergency room April 8, 1998. Cervical myosites of the neck (spasms of the neck)." Appellant stated that she became aware of her condition and related it to her employment on April 8, 1998. On the reverse side of the form, the employing establishment stated that appellant did not stop work and that she was performing all the duties for her job requirements. The Office of Workers' Compensation Programs denied appellant's claim on August 25, 1998, finding that the evidence of record failed to establish that an injury was sustained as alleged. Specifically appellant failed to submit factual evidence to support that she experienced any employment factors to which she attributed her condition and failed to submit medical evidence to support the presence of a medical condition which was caused or aggravated by identified employment factors.

The only factual evidence submitted was appellant's position description and position qualification standards. No medical evidence was submitted with appellant's claim. By letter dated July 13, 1998 the Office advised appellant of the specific evidence needed to establish her claim. However, appellant failed to respond to the Office's requests within the allotted time. As appellant has failed to establish a *prima facie* claim by the submission of factual and medical evidence necessary to substantiate her claim, she has failed to meet her burden of proof.

The decision of the Office of Workers' Compensation Programs dated August 25, 1998 is affirmed.⁸

⁷ *Id.*

⁸ The Board notes that appellant submitted factual and medical evidence after the Office issued its decision and factual evidence with her appeal. As this evidence was not previously considered by the Office prior to its decision of August 25, 1998, the evidence represents new evidence which cannot be considered by the Board. The Board's jurisdiction is limited to reviewing the evidence that was before the Office at the time of its final decision.

Dated, Washington, D.C.
May 18, 2000

Michael J. Walsh
Chairman

George E. Rivers
Member

A. Peter Kanjorski
Alternate Member

20 C.F.R. § 501.2(c). Appellant should resubmit this evidence to the Office together with a formal request for reconsideration pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.606(b).